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PASS TO L/LEI, EUR/PGI, AND DOJ/CCIPS.

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TAGS: [PREL](#) [KJUS](#) [KCRM](#) [ECON](#) [ETRD](#) [FR](#) [COE](#)

SUBJECT: COE CYBERCRIME

1. Summary. The first meeting of the Council of Europe's Cybercrime Convention Committee took place March 20-21, 2006. The United States (Betty Shave, U.S. Department of Justice) was selected as vice-chair of the meeting. The key achievement of the meeting was adoption of an interpretation of the Convention that makes clear that it is meant to cover crimes committed using developing forms of technology, such as mobile phones and personal digital assistants, that allow access to the Internet and otherwise perform computer-like functions. The Council of Europe Secretariat, backed by the United States delegation, resisted calls to offer amendments or protocols to the Convention. The Committee will meet again in 2007.

2. The Council of Europe Convention on Cybercrime entered into force in 2004. Presently there are 12 parties and 30 other signatories. The United States signed the Convention in 2001 and a resolution of ratification is pending in the United States Senate. The Council of Europe convened this meeting under Article 46 of the Convention, which provides that the parties shall consult periodically to facilitate the effective implementation of the Convention, the exchange of information on significant developments pertaining to cybercrime, and the consideration of possible amendment of the Convention.

3. Prominent on the agenda for the meeting were suggestions for possible amendments or protocols to the Convention, including a suggestion that the Convention needed to be amended to cover crimes committed using mobile telephones, and suggestions by Russia that (1) Article 32 of the Convention -- which permits a party to access computer data stored in another party with the consent of a person with lawful access to the data -- should be amended to prohibit such access without the state's consent; and (2) an additional protocol to the Convention should be considered to cover "cyberterrorism." The United States opposes all of these efforts as unnecessary or inappropriate.

4. With respect to mobile telephones, the Committee adopted an interpretation, memorialized in the meeting minutes (COE document T-CY (2006) 11), stating that the term "computer system" in the Convention includes developing forms of technology such as modern mobile telephones that have among their functions the capacity to produce, process, and transmit data, such as accessing the Internet and sending email. In light of this interpretation, the United States requested the removal of a working paper prepared by members of the Secretariat prior to the conference that suggested that an amendment to the Convention might be necessary to address various forms of child exploitation, such as transmission of child pornography and/or enticement of children by sexual predators ("grooming") using mobile telephones. The Secretariat agreed to withdraw and revise the paper (with the assistance of the United States delegation) to emphasize how the Convention can be used to help combat these problems.

5. With respect to Russia's suggestions, the United States delegation was able to persuade both the Council of Europe Secretariat and several other key delegations that it was

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too soon to consider amendments to the Convention. The Secretariat effectively removed these items from the agenda.

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Although Russia made brief presentations on each of its proposals, the Committee did not consider them.

6. Although not yet a party, the United States was asked by the parties to be vice chair of the committee, due to the United States' extensive experience in the field. It was clear that the United States would have been asked to chair the meeting if it were already a party.

7. The Council of Europe Secretariat made clear that its goal was that all states of the world could become parties to the Convention. (In a related matter, a representative of the United Nations Office of Drugs and Crime stated that her office was no longer pressing for a separate Convention on the topic.) The COE described interest in the Convention among states in various regions, including the Americas, Africa, and Asia. Ten states, including the United States,

Germany, Japan, and the United Kingdom, indicated an intent to become parties to the Convention within the next 1-2 years. Russia indicated it would soon sign the Convention.

18. The COE, Interpol, and the United States made presentations on technical assistance being provided to countries around the world in the field of cybercrime.

19. The Committee decided to hold its next meeting in 2007, if possible before the 2007 meeting of the European Committee on Crime Problems (CDPC). The CDPC is to conduct a review of the Convention at its 2007 plenary meeting, tentatively scheduled for June of that year.

10. This message was drafted by the United States delegation to the Committee.

STAPLETON